

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
) No. 13-04016-CR-C-BP
v.)
)
PETR BABENKO,)
BOGDAN NAHAPETYAN,)
)
Defendants.)

GOVERNMENT'S PROPOSED VOIR DIRE

The United States of America, by and through United States Attorney Tammy Dickinson and undersigned counsel, respectfully requests that the following be included in the Court's voir dire in this matter. This request is made pursuant to Fed. R. Crim. P. Rule 24(a) and leave is requested to submit additional questions if deemed appropriate.

A. Victim of Crime

1. Have you, or has anyone close to you, ever been the victim of a crime? If so, please explain. Would that experience make it difficult for you to be a fair and impartial juror in this case?

B. Knowledge of Potential Witness or Parties

2. Do you know or are you familiar with any of the following individuals, who may be witnesses in this case? [The Court is respectfully requested to read the Government's witness list and, if provided, the defendant's witness list.]

3. Do you know or are you familiar with the defendants [or the unindicted co-conspirators] or any of the attorneys involved with this case?

C. Arrests and Convictions

4. Have you, or has anyone close to you, ever been arrested? If so, has that experience caused you any feelings regarding law enforcement that would make it difficult for you to be a fair and impartial juror in this case?

5. Have you, or has anyone close to you, ever been convicted of a state or federal crime? If so, has that experience caused you any feelings regarding law enforcement that would make it difficult for you to be a fair and impartial juror in this case?

D. Jurors' Experience With Law Enforcement

6. Some of the witnesses in this case will be law enforcement officers, including agents from the United States Fish & Wildlife Service (USFWS) and conservation agents from the Missouri Department of Conservation (MDC). Do you have any beliefs about, or experience with, the USFWS, MDC, or other law enforcement officers that would make it in any way difficult for you to be an impartial juror in this case?

7. Have you, or any relative or close friend, ever had any negative or unpleasant experience with the police or other law enforcement agents? If so, what happened? Would that experience affect your ability to be fair and impartial to both sides in this case?

8. Do any of you think that law enforcement or the criminal justice system is not fair?

E. Juror's Experience with the Legal System

9. Have you, or anyone close to you ever been sued, sued someone else, or been a party to a lawsuit or an arbitrated dispute? If so, please describe the nature of the lawsuit or dispute, the court where the case was brought, the parties involved, how long ago this occurred, the final outcome of the case, and what you thought of the process. In your opinion, was the lawsuit

or dispute resolved fairly? Was there anything about that experience that would affect your ability to be fair and impartial in this case?

10. Have you, or anyone close to you ever had a judgment, court order, or restraining order entered against you or a person close to you? If so, please describe when this occurred, the nature of the lawsuit or dispute, what the judgment or order required you, or the person close to you to do or prevented you or the person close to you from doing, the court where the case was brought, the parties involved, and the final outcome of the case.

11. Have you, or anyone close to you ever testified in a court proceeding, been deposed, or provided testimony under oath in any matter? If so, please describe the nature of the proceeding, the parties involved, your experience, or the experience of the person who is close to you, and the final outcome of the matter.

12. Have any of you ever served on a jury before? If so, please describe the nature of the case, your experience, and the final outcome of the matter.

13. Here in federal court, the United States works on all sorts of cases, both civil and criminal. Have you, a close friend, or a family member ever been involved in a case or dispute in which the federal government was a party? If so, what was the nature of that case or dispute? Is there anything about that experience that would make it difficult for you to sit as an unbiased juror?

F. Juror's Experience with Fish & Game Laws

14. The Indictment in this case charges the Defendant with violating, and conspiring to violate, the Lacey Act, which makes it a crime to engage in the purchase or transport of wildlife in interstate commerce knowing that the wildlife was taken or possessed in violation of State law. Do you have any personal disagreement with making it a crime to do these things?

15. Are you familiar with, or do you have any experience with, the Lacey Act, or any other animal-protection laws? If so, please describe that experience or familiarity. Would your familiarity with those laws affect your ability to be a fair and impartial juror in this case?

16. Do you object to, or disagree with, the government's enforcement of wildlife protection laws -- such as the Lacey Act -- which prohibit or regulate certain sales and other transactions with animals?

17. Are any of you fishermen? If so, do you have knowledge of, or experience with, the laws or regulations for fishing for paddlefish in Missouri? Please describe that knowledge or experience. Would that knowledge or experience affect your ability to sit as a fair and impartial juror in this case in any way?

18. Do any of you believe that wildlife conservation laws are too strict? Do any of you believe that it is a waste of government resources to enforce wildlife protection laws or that a wildlife violation has no place in federal court?

19. Have you, or any close friend or relative, ever been negatively affected in any way by government laws and regulations pertaining to the protection of wildlife?

20. Have you, or any of your close friends or relatives, ever been the subject of a legal action or prosecution for a wildlife-related offense, or fined for a violation of wildlife laws? This would include a hunting violation. If so, what was the nature of the action, and the disposition of the matter? Do you think the disposition was fair and proper? Would that experience in any way affect your ability to be a fair and impartial juror in this case?

21. The charges in this case relate to the unlawful purchase and interstate transportation of paddlefish and paddlefish eggs (roe) for the production of caviar. Do you have any particular knowledge about Missouri law regarding the purchase and sale of fish or fish roe? Have you, or

any close friend or relative, ever applied for a Missouri Roe Fish Dealer Permit? If so, please describe that. Would this in any way affect your ability to be a fair and impartial juror in this case?

G. Accomplice Witnesses or Cooperators

22. You may hear testimony from witnesses who participated in the crimes that the defendant(s) is/are charged with, and who have entered into plea agreements with the government. Do any of you believe that it is not appropriate for the government to provide some benefit (such as a possible favorable recommendation at sentencing) to a person in a criminal case in exchange for the person's assistance with the government's investigation and the person's truthful testimony at trial?

23. Will the fact that a witness participated in the crimes he or she is testifying about cause any of you to reject his or her testimony simply because the witness was an accomplice?

24. Will the fact that a witness has entered into a plea agreement with the government cause any of you to reject his or her testimony simply because the witness has entered into a plea agreement?

25. Would any of you automatically reject the testimony of a witness simply because the witness received promises of some benefit from the government in exchange for his or her truthful cooperation?

H. Punishment and Sympathy

26. Do any of you have any reservations about sitting in judgment of an accused person and returning a verdict?

27. If the Court instructs you that your verdict must not be based on sympathy, passion, or prejudice, but only on the evidence in this case, will you be able to follow that instruction?

28. Regardless of your personal feelings about any issue that may arise in this case, will you follow the law as I give it to you during this case?

29. If you are selected as a juror and hear this case, you will be required to deliberate with eleven other jurors. This will require you to discuss the evidence and the law in this case with those other jurors. Do you have any beliefs that would interfere with your ability to deliberate and reach a verdict in this case? Is there anything that leads you to believe that you would be unable or unwilling to engage in such discussions with your fellow jurors?

30. Knowing what you now know about this case, do you have any reservations about your ability to hear the evidence, deliberate and return a fair and impartial verdict?

I. Miscellaneous

31. The circumstances surrounding this case may have been reported in the media. Have you seen or heard anything about this case prior to coming to court? If so, will you be able to put aside what you have seen or heard and render a verdict based solely upon the evidence introduced in court? Would the media reports you have seen or heard in any way affect your ability to be a fair and impartial juror in this case?

32. Is there anything about the charges in this case, or anything else that you now know about this case, that makes you unwilling or reluctant to serve as a juror or causes you any reservations about your ability to hear the evidence, deliberate and return a fair and impartial verdict?

33. Is there any reason why you might be biased or prejudiced against the government or the defendant because of the nature of the charges in this case?

34. Do any of you have any difficulty with your language skills, hearing, sight or have medical problems which could impair your ability to devote your full attention to this trial?

35. Is there anything else -- maybe something that I haven't asked -- that you think might make it difficult for you to render judgment in this case based solely upon the evidence presented during trial?

Respectfully submitted,

Tammy Dickinson
United States Attorney

By _____ /S/ _____

Lawrence E. Miller
Assistant United States Attorney
Missouri Bar No. 39531

/S/ _____

James B. Nelson
Trial Attorney
United States Department of Justice
Nevada Bar No. 9134

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on September 20, 2013, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/S/

James B. Nelson
Trial Attorney
United States Department of Justice
Environmental Crimes Section